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10/523,065	09/08/2005	Mark Beckmann	071308.0973 (2002P11739WO	7574

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EXAMINER	
ZEWARI, SAYED T	
ART UNIT	**PAPER NUMBER**
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/523,065	BECKMANN ET AL.	
	Examiner	Art Unit	
	SAYED T. ZEWARI	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 February 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *14-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *14-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's arguments filed on 2/17/2009 have been fully considered but they are not persuasive.

2. Examiner has understood that the applicants have made an earnest effort to place this application in condition of allowance. However, the applicant failed to amend the claims in such a way that they overcome the previous references and to incorporate the desired limitations in the claim.

3. Applicant is reminded that the applications are examined on the merit of the claims and not the specification. Examiner has understood that the applicants made their point in the remarks and previous phone interviews. However, the points discussed in the remarks or previous phone interviews are not incorporated in the body of the claim in such a way to overcome the previous rejection. For example:

4. The applicant has amended the claim 14:

> *14. (Currently Amended) A method for transmitting user data messages from a network element of a radio communication system over at least one transmission channel to at least one subscriber device of the radio communication system, the method comprising announcing a form of the user data messages ~~via~~* ***by transmission of at least one message comprising*** *planning information before transmission of the user data messages, wherein the planning information* ***comprises the form of the user data messages and wherein the*** *form of the*

user data messages to be transmitted includes at least one of a data type ***of the user data messages*** *and a coding of the user data messages.*

The above amendment is not sufficient enough to overcome the previous rejections. The applicant could have been more specific (see the example below):

14. (Currently Amended) A method for transmitting user data messages from a network element of a radio communication system over at least one transmission channel to at least one subscriber device of the radio communication system, the method comprising

Transmitting an announcement to the subscribers in broadcast mode, wherein the announcement informs the subscribers of the incoming data that is about to be transmitted to subscribers, wherein the announcement and the data messages are transmitted separately such that the announcement transmission starts, the announcement transmission ends, and only then the actual data messages are transmitted/broadcasted to subscribers, wherein announcement data packets/frames and the data message packets/frames are separate and not part of the same burst of transmission, wherein announcement comprised to two types of information, the type of data the forms the data message, and the coding information by which the data message is coded.

5. Applicant argues that

Lim does not disclose that the header information announces the types of the arriving packets. It is only disclosed that it is determined, based on header information within the packet data, whether the subscriber is an intended recipient of the packet data or not. Lim, [0021],[0022]. This is achieved with a header which comprises a multicast group

This argument is not persuasive. Lim discloses the same concept as that of applicant which is announcing of arriving packets to subscribers. The packets/frames are vehicle used to carry any kind of information including types of arriving packets. Just the mere using of this vehicle (packets/frames) to carry a specific data is not innovative and has been extensively used.

6. Applicant argues that

A multicast group identifier is neither a data type of the packet data nor a coding of the packet data.

This argument is not persuasive. Lim discloses an identifier which is comprised of packets/frames. The packets/frames are vehicle used to carry any kind of information including types of arriving packets. Just the mere using of this vehicle (packets/frames) to carry a specific data is not innovative and has been extensively used.

7. Applicant argues that

The transmission of the header information in Lira occurs together with the transmission of the user data messages, because the multicast or broadcast messages (data packets) are transmitted with the header information within the

multicast or broadcast messages (data packets). Lim, [0021], [0022]. Technically, the headers of the multicast or broadcast packet data in Lim must be sent together with the multicast or broadcast packet data, because otherwise the multicast or broadcast packet data could not be transmitted.

This argument is not persuasive because the applied reference still reads on this limitation. Technically, the header information, though in the same packet as data messages, are transmitted before transmission of data message. As is known in the art, the headers are transmitted first and then the data messages are transmitted after the transmission of the header.

8. The core essence of applicant's invention is announcement of form of data a head of time. This limitation is disclosed by Lim. The transmission of announcement and actual data packets separately doe not really constitute innovation. Applicant is referred to section [0019] lines 11-14 where only the targeted receiver receives and process data packets by referring to the header information. This header information arrives before data and announces the types of arriving packet data. Applicant is further referred to section [0021] lines 4-8 and section [0022] lines 10-13 where such a header with such function is disclosed.

9. Therefore, Lim and Holden disclose all the limitations of the claims of the applicant.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 14, 15, 19-21, 23, 25, 28, and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Lim (US 2002/0,057,663).

With respect to claim 14, Lim discloses a method for transmitting user data messages from a network element of a radio communication system over at least one transmission channel to at least one subscriber device of the radio communication system **(See Lim's abstract figure 3, section [0034]-[0037])**, the method comprising announcing a form of the user data messages ~~via~~ by transmission of at least one message comprising planning information before transmission of the user data messages **(See Lim's section [0019], [0020], [0021], [0022])**, wherein the planning information comprises the form of the user data message and wherein the form of the user data messages to be transmitted includes at least one of the data type of the user data messages and a coding of the user data message **(See Lim's section [0019], [0020], [0021], [0022]).**

With respect to claim 28, Lim discloses a subscriber device of a radio communication system, in which user data messages are transmitted over at least one transmission channel to the subscriber device **(See Lim's abstract figure 3, section [0034]-[0037])**, comprising parts for receiving only the user data messages which, with regard to an announced form, it is able to process, wherein the form of the user data message is announced by transmission of at least one message comprising planning information before transmission of the user data messages **(See Lim's section [0019], [0020], [0021], [0022])**, with the form of the user data messages to be transmitted including at least one of a data type of the user data messages and a coding of the user data messages **(See Lim's section [0019], [0020], [0021], [0022]).**

With respect to claim 29, Lim discloses a radio communication system **(See Lim's abstract figure 3, section [0034]-[0037])**, comprising: At least one subscriber device **(See Lim's abstract figure 3, section [0034]-[0037])**; and A network element for transmitting user data message over at least one transmission channel to the at least one subscriber device **(See Lim's abstract figure 3, section [0034]-[0037])**, wherein a form of the user data messages is announced by transmission of at leas one message comprising planning information before transmission of the user data messages, with the form of the user data messages to be transmitted including at least one of the a data type of the user data messages and a coding of the user data messages **(See Lim's section [0019], [0020], [0021], [0022])**.

With respect to claim 15, Lim discloses a method for transmitting a user data messages wherein the planning information includes a first planning message by which

the transmission of the user data messages is announced via a first separate transmission channel **(See Lim's section [0010], furthermore the use a first channel for channel setup is in common usage)**, and a second planning message by which description information specifying the form of the user data messages to be transmitted is transmitted vial at least one second separate transmission channel **(See Lim's section [0010], furthermore the use a second channel for transmission is in common usage)**.

With respect to claim 19, Lim discloses a method for transmitting a user data messages wherein the method is carried out in a framework of a broadcast service **(See Lim's section [0017]- [0019]).**

With respect to claim 20, Lim discloses a method for transmitting a user data messages wherein the broadcast service is an extension of a Cell Broadcast Service **(See Lim's section [0017]- [0019]).**

With respect to claim 21, Lim discloses a method for transmitting a user data messages wherein the broadcast service is a multicast service **(See Lim's section [0017]- [0019]).**

With respect to claim 23, Lim discloses a method for transmitting a user data messages wherein the first planning message contains information about when and on which second separate transmission channel of which there is at leas one, at least one of second planning messages and user data messages are transmitted **(See Lim's section [0010], furthermore the use a first channel for channel setup is in common usage)**.

With respect to claim 25, Lim discloses a method for transmitting a user data messages wherein the subscriber device is a mobile radio device **(See Lim's section [0016], [0017], [0019], and [0026]).**

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13. Claim 16-18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lim (US 2002/0,057,663) in view of Holden (US 6,771,639).

With respect to claim 16, Lim discloses a method and system for transmitting a user data messages. However Lim does not specifically disclose that these data types includes one of a text format, an image format, an audio format and a video format **(See Holden's col.4 lines 17-32, 41-42, col.5 lines 6-34).** Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Lim and combine it with that of Holden, thereby providing a system that announces the above mentioned information types, as disclosed by Holden **(See Holden's col.4 lines 17-32, 41-42, col.5 lines 6-34).**

With respect to claim 17, Lim discloses a method for transmitting a user data messages. However, Lim does not specifically discloses that the data type includes one

of an MP3 format, an AMR format, a WAV format, a JPEG format and an MPEG 4 format **(See Holden's col.7 lines 11-24, col.9 lines 36-42, see additional information: col.6 lines 5-31).** Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Lim and combine it with that of Holden, thereby providing a system that announces the above mentioned information types, as disclosed by Holden **(See Holden's col.7 lines 11-24, col.9 lines 36-42, see additional information: col.6 lines 5-31).**

With respect to claim 18, Lim discloses a method for transmitting a user data messages. However, Lim does not specifically discloses a method wherein the description information further includes parameters referring to one of data volume, image dimensions for at least one of image data and video data, and a playback duration for at least one of audio data and video data. But Holden discloses these limitations **(See Holden's col.7 lines 11-24, col.9 lines 36-42, see additional information: col.6 lines 5-31).** Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Lim and combine it with that of Holden, thereby providing a system that announces the above mentioned information, as disclosed by Holden **(See Holden's col.2 lines 15-41).**

With respect to claims 30 and 31, the above combination of references applied, disclose all the limitations of the claim 30 and 31.

14. Claims 22, 24, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lim (US 2002/0,057,663) in view of well-known prior art (MPEP 2144.03).

With respect to claim 22, Lim discloses a method for transmitting a user data messages. Lim does not specifically disclose the method is operated in accordance with a UMTS Standard. However, an official notice is taken that the concept and use of transmitting a user data messages are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to implement the method disclosed by Lim in a UMTS system.

With respect to claim 24, Lim discloses a method for transmitting a user data messages. Lim does not specifically disclose the subscriber device receives only data which the at least one subscriber device is designed to process. However, an official notice is taken that the concept and use of transmitting a user data messages to subscriber devices capable of processing that data are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to transmit only data messages that a subscriber device is capable of processing.

With respect to claim 26, Lim discloses a method for transmitting a user data messages. Lim does not specifically disclose a mobile phone. However, an official notice is taken that the concept and use of transmitting a user data messages using a mobile phone are well known and expected in the art. Therefore, it would be obvious to

one of ordinary skill in the art to implement the method disclosed by Lim in a mobile phone.

With respect to claim 27, Lim discloses a method for transmitting a user data messages. Lime does not specifically disclose the subscriber device receives only the user data messages it is able to process. However, an official notice is taken that the concept and use of transmitting a user data messages to subscriber devices capable of processing that data are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to transmit only data messages that a subscriber device is capable of processing.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAYED T. ZEWARI whose telephone number is (571)272-6851. The examiner can normally be reached on 8:30-4:30.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester G. Kincaid can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sayed T Zewari/
Examiner, Art Unit 2617
March 12, 2009

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617